

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

99.5099

**FIRST PREFERENCE PRODUCTS
CORPORATION, CEREAL
BYPRODUCTS COMPANY**

Plaintiff,

VS.

**POWERS & STINSON, a Mississippi
Corporation; POWERS & STINSON, a
Tennessee Corporation; NATIONAL
BANKERS TRUST CORPORATION; THE
TRANSPORT FIRM, INC.; E.A.
NICHOLS, ESQ., Individually; THE LAW
OFFICE OF E.A. NICHOLS, P.C. and
NICHOLS LAW OFFICE, P.C.,**

NO. 2-13-CV-02515 - SHM/dkv

Defendants.

**STIPULATION OF DISMISSAL AS TO COUNTS 9, 10 AND 11 OF SECOND
AMENDED COMPLAINT**

The parties, pursuant to Federal Rule of Civil Procedure 41(a), stipulate and have agreed that Counts 9 (Abuse of Process) and 10 and 11 (Vicarious Liability) of Plaintiffs' Second Amended Complaint are hereby dismissed with prejudice.

On March 24, 2015, this Court entered the "Order Granting in Part and Denying in Part Defendants' Motions to Dismiss."¹ In that Order, this Court granted Defendants' Motions to Dismiss multiple counts contained in Plaintiffs' Second Amended Complaint. However, this

¹ See Doc. 119, "Order Granting in Part and Denying in Part Defendants' Motions to Dismiss"

Court denied Defendants' Motion to Dismiss Count 9 of the Second Amended Complaint (Abuse of Process) and Counts 10 and 11 (Vicarious Liability) the Second Amended Complaint.²

By stipulation of the parties, Count 9 of the Second Amended Complaint for Abuse of Process is dismissed with prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. Further, upon approval of that stipulation as to dismissal of Count 9, the parties further stipulate that Counts 10 and 11 of the Second Amended Complaint (Vicarious Liability) be dismissed with prejudice.

Upon Court-approval of this Stipulation dismissing the remaining Counts, the parties further assert that entry of an Order of Final Judgment pursuant to Federal Rules of Civil Procedure 54 and 58 is then appropriate. The parties further agree that each party will bear its own costs and expenses, including attorneys' fees.

Respectfully submitted January 4, 2016.

Respectfully submitted,

McNABB, BRAGORGOS & BURGESS, PLLC

/S/ LELAND M. McNABB #7551

/S/ R. SCOTT MCCULLOUGH #19499

*Attorneys for First Preference Products Corp. and
Cereal Byproducts*

81 Monroe, Sixth Floor

Memphis, Tennessee 38103

Telephone: (901) 624-0640

Fax: (901) 624-0650

smccullough@mbb-law.com

² Id., p. 12,13

/S/Odell Horton, Jr. #12426

Attorney for E.A. Nichols, Esq., Individually, The Law Office of E.A. Nichols, P.C. and Nichols Law Office, P.C.

Wyatt, Tarrant & Combs
1715 Aaron Brenner Drive
Suite 800
Memphis Tennessee 38120

/S/Russell Fox Esq. #27232

Attorney for The Transport Firm, Powers & Stinson, a Mississippi Corporation; and Powers & Stinson, a Tennessee Corporation;

4728 Spottswood
Suite 373
Memphis, Tennessee 38117

/S/Russell Reviere Esq.#7166

/S/ Jonathan D. Stewart #23039

Attorneys for National Bankers Trust

Rainer Kizer Reviere & Bell
50 North Front Street
Suite 610
Memphis, Tennessee 38103

CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing has been served upon opposing counsel for all parties or all parties individually as follows,

Russell Reviere Esq.
Rainer Kizer Reviere & Bell
50 North Front Street
Suite 610
Memphis, Tennessee 38103
Attorneys for National Bankers Trust

Robert D. Flynn, Esq.
HF Law Group
3257 W. Sarazen's Circle
Memphis, Tennessee 38125
Attorney for Powers & Stinson

Russell Fox Esq.
4728 Spottswood
Suite 373
Memphis, Tennessee 38117
Attorney for The Transport Firm

Frank M. Holbrook Esq.
Amy M. Pepke Esq.
Diana M. Comes Esq.
Daniel Van Horn Esq.
Butler Snow LLP
Crescent Center
6075 Poplar Avenue, 5th Floor
Memphis, TN 38119
Attorneys for National Bankers Trust

Odell Horton, Jr.
Joseph D. Reafsnyder
Wyatt, Tarrant & Combs
1715 Aaron Brenner Drive
Suite 800
Memphis Tennessee 38120
*Attorneys for E.A. Nichols, Esq., Individually,
The Law Office of E.A. Nichols, P.C. and
Nichols Law Office, P.C.*

on January 4, 2016.

/S/ R. SCOTT McCULLOUGH

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